

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LAWRENCE M. MARTIN,) CASE NO.: C06-1092-RSL
Petitioner,)
v.) ORDER RE: PETITIONER'S
PEND. MOTIONS
JEFF UTTECHT,)
Respondent.)

This matter comes before the Court on petitioner's second motion for appointment of counsel and on petitioner's motion to compel and/or extend time. The Court, having reviewed petitioner's motions, and the balance of the record, does hereby find and ORDER as follows:

(l) Petitioner's second motion for appointment of counsel (Dkt. No. 27) is DENIED. There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required. *See Terravona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts. The Court may exercise its discretion to appoint counsel for a financially eligible individual where the "interests of justice so require." 18 U.S.C. § 3006A.

In a Report and Recommendation issued the same date as this Order, this Court concluded that it lacked jurisdiction over petitioner’s petition because the petition was successive. This Court therefore recommended that the petition be transferred to the Ninth Circuit Court of Appeals. As this Court lacks jurisdiction to consider petitioner’s petition, it would serve no purpose to appoint counsel in this matter.

(2) Petitioner's motion to compel and/or extend time (Dkt. No. 28) is GRANTED. Petitioner, by way of the instant motion, appears to seek additional time to file a response to respondent's answer to his federal habeas petition. Petitioner's traverse to the answer was received by the Court on October 20, 2006, the date the petition was noted for consideration. Petitioner's traverse has been made a part of the record.

(3) The Clerk shall direct copies of this Order to petitioner, to counsel for respondent, and to the Hon. Robert S. Lasnik.

DATED this 21st day of November, 2006.

Mary Alice Theiler
Mary Alice Theiler
United States Magistrate Judge